

Internal Revenue Service

Department of the Treasury

RECEIVED
10/17/84District
DirectorP.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO

Date:

SEP 7 1984

Dear Sir or Madam:

We have reviewed your application for exemption from Federal income tax under the provisions of section 501(c)(7) of the Internal Revenue Code of 1954.

The application discloses that [REDACTED], hereafter referred to as "the Association" is operating under Articles of Incorporation dated [REDACTED].

The articles state the purpose of the Association is to assume responsibility for maintenance of all roads, shower house, and all other common properties owned by the Association, as shown on plats and recorded in the [REDACTED] County Court House, [REDACTED] in [REDACTED] County. In furtherance of that purpose, the Association maintains a bathhouse and two pieces of land bordering [REDACTED] Creek, one at [REDACTED] acres and the other at [REDACTED] acres.

The Association provides a campsite for recreation vehicles and cabins. Rules and regulations issued by the Association govern the size and type of trailers and summer cottages permitted in the park and on the individual lots.

The application and subsequent correspondence indicate that there are [REDACTED] lots, [REDACTED] of which have been sold. The principal owner has retained [REDACTED] lots. There is only one class of members which consists of the [REDACTED] property owners. The members are required to pay \$[REDACTED] annually for maintenance fees. Members stay at the campsites according to their individual schedules and arrange their own social and recreational activities while at the park, since the Association has no organized program. All facilities and property are restricted for use of members.

For the period ending [REDACTED], the Association received all of its income from membership dues. All expenses were for utilities, maintenance, insurance, taxes, and supplies for the common ground and bathhouse. Each individual is responsible for his or her own utilities, security light, insurance, property tax, and mowing of his own campsite. There were no expenses for social or recreational activities.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]			
Date	8/23/84	8/27/84	8-27-84	9-5-84			

[REDACTED]

Revenue Ruling 75-494, 1975-2 C.B.214 states that a club providing social and recreational facilities, whose membership is limited to homeowners of a housing development, will be precluded from qualifying for exemption under section 501(c)(7) of the Code by owning and maintaining residential streets, enforcing restrictive covenants, or providing residential fire and police protection and trash collection service.

By providing utilities, maintenance and insurance, and maintaining the roads and the bathhouse, the association is similar to the club described in Revenue Ruling 75-494, and is not organized and operated for pleasure and recreation.

Therefore, we propose to deny your application for exemption under section 501(c)(7) of the Code.

A determination has also been made as to whether or not you qualify as a social welfare organization under section 501(c)(4) of the Code.

Section 501(c)(4) of the Code provides in part, that "civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare" qualify for recognition of exemption.

Section 1.501(c)(4)-1(a)(2)(i) of the Income Tax Regulations provides in part, that:

...an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements...

In Revenue Ruling 72-102, 1972-1 C.B. 149, it was held that a membership organization formed by a developer to administer and enforce covenants for preserving the architecture and appearance of a housing development and to own and maintain common green areas, streets, and sidewalks for the use of all development residents was exempt under section 501(c)(4) of the Code.

Revenue Ruling 74-99, 1974-1 C.B. 131 which modified and clarified Revenue Ruling 72-102, provides in part that a homeowners association, to qualify for exemption under section 501(c)(4) of the Code, (1) must serve

[REDACTED]

a "community" which bears a reasonable recognizable relationship to an area ordinarily identified as governmental, (2) it must not conduct activities directed to the exterior maintenance of private residences, and (3) the common areas or facilities it owns and maintains must be for the use and enjoyment of the general public. The Revenue Ruling, in reciting the areas and facilities owned and maintained by the organization, speaks only of "common green areas, streets, and sidewalks." The Revenue Ruling was, by the quoted phrase, designed to indicate that the only area and facilities encompassed were those traditionally recognized and accepted as being of direct governmental concern in the exercise of the powers and duties entrusted to governments to regulate community, health, safety and welfare. Thus the Revenue Ruling was intended only to approve ownership, and maintenance by a homeowners association of such areas as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners association, as appropriate and consistent with exemption under section 501(c)(4).

As the areas and facilities owned and maintained by the Association are common green areas, streets, and sidewalks," which are not open to the general public but restricted for the use and enjoyment of members only, the Association does not qualify as an organization described in section 501(c)(4) of the Code.

Therefore, we propose to deny your application for recognition of exemption under section 501(c)(4) of the Code. We are also of the opinion that you do not qualify under any other section of the Code.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1120.

If you agree with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

[REDACTED]

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892 (Rev. 7-83), "Exempt Organization Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

If we do not hear from you within the time specified, this will become our final determination.

Sincerely yours,

[REDACTED]

[REDACTED]

District Director

Enclosures (2)